

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
CANTON DIVISION**

IN RE:)	IN CHAPTER 13 PROCEEDINGS
)	
WESLEY CURTIS SMITH)	CASE NO. 16-62124
)	
Debtor)	JUDGE RUSS KENDIG
)	
)	CREDITOR'S MOTION TO STRIKE

Now comes Citizens Bank, NA, (hereinafter "bank"), by and through its undersigned counsel, and hereby moves this court for an order which strikes from the record the debtor's Third Amended Chapter 13 Plan filed on August 22, 2017 as being untimely. As and for grounds in support of this relief, the bank states as follows:

1. On July 19, 2017 a hearing came on before the court with respect to the possible confirmation of the debtor's Second Amended Chapter 13 Plan dated May 17, 2017.
2. As a result of that hearing, the court on July 28, 2017 entered an order which provided that the objections of the Chapter 13 trustee and the bank to the debtor's Second Amended Chapter 13 Plan were sustained and, as a result thereof, confirmation of that plan was denied. Additionally, the court ordered the debtor to provide an amended plan addressing the objections raised by both the trustee and the bank within twenty-one (21) days of the date of its order, or until the close of business on August 18, 2017.
3. Despite that order, the debtor did not ask the court for any extension of time in which to comply, nor has he offered any reasonable explanation which would otherwise support the filing of his Third Amended Chapter 13 Plan instant.

WHEREFORE, in view of the foregoing, Citizens Bank, NA moves this court for an order

which strikes from the record the debtor's Third Amended Chapter 13 Plan filed on August 22, 2017 as being untimely filed such that these Chapter 13 proceedings, pursuant to the requirements of the order of July 28, 2017, be dismissed.

Respectfully submitted,

/s/Michael V. Demczyk

Michael Demczyk #0018863
McNAMARA, DEMCZYK CO., LPA
12370 Cleveland Avenue, NW
P. O. Box 867
Uniontown, OH 44685
(330) 699-6703
mvdatty@yahoo.com

Attorney for Citizens Bank, NA

CERTIFICATE OF SERVICE

I certify that on August 23, 2017, a true and correct copy of the foregoing Creditor's Motion to Strike was served:

Via the court's Electronic Case Filing System on these entities and individuals who are listed on the court's Electronic Mail Notice List:

Johna M. Bella at jbella@gpblaw.com
Gerald B. Golub at golublaw@prodigy.net
Roger W. Goranson at rgoranson@gpblaw.com
Toby L. Rosen, Trustee at trosen@chapter13canton.com, trosen@ecf.epiqsystems.com

And by regular U.S. mail, postage prepaid, on August 23, 2017:

PRA Receivables Management, LLC
P.O. Box 41021
Norfolk, VA 23541

Wesley Curtis Smith
2397 Downing Street, SW
East Sparta, OH 44626

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FOR THE NORTHERN DISTRICT OF OHIO
CANTON DIVISION**

IN RE:)	IN CHAPTER 13 PROCEEDINGS
)	
WESLEY CURTIS SMITH)	CASE NO. 16-62124
)	
Debtor)	JUDGE RUSS KENDIG
)	
)	<u>NOTICE OF CREDITOR'S</u>
)	<u>MOTION TO STRIKE</u>

Citizens Bank, NA a creditor herein, has filed papers with the court requesting an order striking the debtor's Third Amended Chapter 13 Plan in these Chapter 13 proceedings.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to allow the notice to go forward, or if you want the court to consider your views on the notice, then on or before **September 6, 2017**, you or your attorney must:

File with the court written response explaining your position at:

Clerk, United States Bankruptcy Court
Ralph Regula Federal Building and United States Courthouse
401 McKinley Ave., S.W.
Canton, Ohio 44702

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also mail a copy to:

Michael V. Demczyk, Attorney at Law
12370 Cleveland Avenue NW
PO Box 867
Uniontown, Ohio 44685

and

Toby L. Rosen, Chapter 13 Trustee
400 W. Tuscarawas Street

Citizens Bank Building, 4th Floor
Canton, OH 44702

If you or your attorney do not take these steps and no objections are filed, an order will be entered with the bankruptcy court which strikes the debtor's Third Amended Chapter 13 Plan from the docket of this case and dismisses these proceedings.

Dated: August 23, 2017

/s/ Michael V. Demczyk
Michael V. Demczyk, #0018863
Attorney for the Creditor

CERTIFICATE OF SERVICE

I certify that on August 23, 2017, a true and correct copy of the foregoing Notice was served:

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